

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

MATTHEW DEROCHA,

Plaintiff,

5:18-cv-1051 (BKS/ATB)

v.

SYRACUSE POLICE,

Defendant.

Appearances:

Matthew DeRocha
Syracuse, NY 13202
Plaintiff, pro se

Hon. Brenda K. Sannes, United States District Judge:

MEMORANDUM-DECISION AND ORDER

On September 4, 2018, Plaintiff pro se Matthew DeRocha commenced this action by filing a complaint and a motion for leave to proceed in forma pauperis. (Dkt. Nos. 1, 2). This matter was referred to United States Magistrate Judge Andrew T. Baxter who, on September 12, 2018, issued an Order and Report-Recommendation recommending that Plaintiff's complaint be dismissed without prejudice to plaintiff submitting a proposed amended complaint. (Dkt. No. 5). Magistrate Judge Baxter advised Plaintiff that, under 28 U.S.C. § 636(b)(1), he had 14 days within which to file written objections to the Report-Recommendation, and that the failure to object to the Report-Recommendation within 14 days would preclude appellate review. (*Id.* at 9–10). On October 22, 2018, Plaintiff filed an amended complaint. (Dkt. No. 9). Plaintiff did not file objections to the Report-Recommendation.

As no objections to the Report-Recommendation have been filed, and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 228–29 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee’s note to 1983 amendment. Having reviewed the Report-Recommendation for clear error and found none, the Court adopts the Report-Recommendation in its entirety.

For these reasons, it is hereby

ORDERED that Magistrate Judge Baxter’s Report-Recommendation (Dkt. No. 5) is **ADOPTED** in all respects; and it is further


ORDERED that Plaintiff’s complaint (Dkt. No. 1) is **DISMISSED without prejudice**, with leave to amend; and it is further

ORDERED that the amended complaint (Dkt. No. 9) is referred to Magistrate Judge Baxter for review under 28 U.S.C. § 1915(e); and it is further

ORDERED that the Clerk serve a copy of this Order on the plaintiff in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: November 8, 2018
Syracuse, New York


Brenda K. Sannes
U.S. District Judge